



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael L. Denby) Ex: ROWAN
Serial No.: 09/546,502)
Filed: 11 April 2000) Art Unit: 3643
Title: FISHING LINE AND LURE CONNECTORS)

TRANSMITTAL OF APPEAL BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

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Enclosed is the Brief on Appeal and two copies of the same, in compliance with the Rules, in the above captioned matter, and a check in the amount of \$160.00, the requisite fee set forth in 37 CFR 1.17(f).

Respectfully submitted,

Michael W. Coltry
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11 June 2003

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Walter Edwards
Signature

11 June 2003

11 June 2003
Date

Respectfully submitted,

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Serial Number: 09/546,502
Group Art Unit: 3643

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
Michael L. Denby

Serial No.:
09/546,502

Filed:
11 April 2000

Ex: Rowen, Kurt C.
Art Unit: 3643

For:
FISHING LINE AND LURE
CONNECTORS

BRIEF FOR APPELLANT

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

Please consider the contents of the following Brief for Appellant.

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I. REAL PARTY IN INTEREST

Appellant Michael L. Denby is the real party in interest to the above-described patent application.

II. RELATED APPEALS AND INTERFERENCES

No appeals or interferences relate to the above-described patent application.

III. STATUS OF THE CLAIMS

1. Claims 1-3 and 37-41 are pending.
2. Claims 1-3 and 37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of McMahon (U.S. Patent 5,787,762).
3. Claims 38-41 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of Drosdak (U.S. Patent 4,864,767).
4. A copy of claims 1-3 and 37-41, the claims on appeal, is provided in Appendix A.

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IV. STATUS OF AMENDMENTS FILED SUBSEQUENT TO FINAL REJECTION

No amendments were filed subsequent to the final rejection of December 2, 2002 (paper no. 14).

V. EXPLANATION OF THE INVENTION

The application on appeal discloses and claims apparatus for receiving and securing an end segment of a line. The apparatus consists of a body 30 including a receptacle 25 having inwardly directed extensions 35, an open first end 32 leading to receptacle 25 and an opposing second end 31. Receptacle 25 is capable of receiving therein and extensions 35 impinging thereagainst the end segment of a fishing line. A pair of resilient hooks 40,41 is attached to the second end 31 of the body. Hooks 40,41, which together constitute a coupler, are disposed in an overlapping state forming a continuous loop in which a lure is engagable thereto by forcing hooks 40,41 apart and threading one of hooks 40,41 into and through a hook eye of the lure. In another embodiment, hooks 40,41 are replaced by a pair of opposed plates 48,49, which constitute another embodiment of a coupler and are biased together and carry prongs 50,51A,51B. Prongs 50,51A,51B are disposed between plates 48,49 and are capable of securing a hook eye of a lure.

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VI. ISSUES FOR REVIEW

1. Whether the invention claimed in claims 1-3 and 37 is obvious under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of McMahon (U.S. Patent 578,762).

2. Whether the invention claimed in claims 38-41 is obvious under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of Drosdak (U.S. Patent 4,864,767).

VII. GROUPING OF CLAIMS

Independent claim 1 and dependent claims 2, 3, and 37, are drawn to apparatus for receiving and securing an end segment of a line. Independent claim 38 and dependent claims 39-41 are drawn to apparatus for receiving and securing an end segment of a line.

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VIII. ARGUMENT

A. Claims 1-3 and 37 are not obvious under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of McMahon (U.S. Patent 578,762). Claims 38-41

Claims 1-3 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of McMahon (U.S. Patent 578,762). Appellant respectfully traverses Examiner's rejections of claims 1-3 and 37.

In paper no. 14, Examiner asserts that the patents to Drosdak '652 and McMahon show fishing line and lure connectors; that Drosdak '652 shows a line connector having a body 7 having a receptacle or socket 9 having inwardly directed extensions 10; that Drosdak '652 shows the body is capable of receiving the end segment of fishing line 6; that Drosdak '652 shows a coupler 8; that Drosdak '652 shows a first open end leading to a receptacle and a second opposing end; that the patent to McMahon shows a connector having a body *a* and a coupler *h* attached to the body that is capable of engaging and supporting a fishing lure B, C; that the coupler is comprised of a pair of resilient hooks disposed in an overlapping state forming a continuous loop in which the lure part is engagable to the coupler by forcing the hooks apart; and that in reference to claims 1-3, 37, it would have been obvious to provide Drosdak '652 with a coupler as shown by McMahon since merely one equivalent mechanical coupler is being substituted for another. Examiner also asserts that the hooks would be attached to the second end of the body and that Drosdak '652 shows the extensions positioned at spaced intervals along substantially the entire length of the receptacle and also shows the extensions being directed away from an open end of the body.

In accordance with standard Patent Office practice, the Examiner has the burden of establishing a prima facie case of obviousness. (Manual of Patent Examining Procedure, M.P.E.P. 2142). Three basic criteria must be met to establish a prima facie case of obviousness. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or the references when combined) must teach or suggest all the claim limitations. According to the U.S. Court of Appeals for the Federal Circuit, “[t]he test for obviousness is not whether the features of one reference may be bodily incorporated into another reference. . . . Rather, we look to see whether combined *teachings* render the claimed subject matter obvious.”¹ Also, “[o]bviousness cannot be established by combining the teachings of the prior art to produced the claimed invention, absent some teaching, suggestion or incentive supporting the combination.”²

An invention does not make itself obvious; that suggestion or teaching must come from the prior art. In Drosdak ‘652, coupler 8 is a threaded female socket. With respect to claims 1-3 and 37, Examiner states that it would have been obvious to provide Drosdak ‘652 with a coupler, e.g., Appellant’s claimed hooks 40,41, as shown by McMahan as a substitute for coupler 8 since merely one equivalent mechanical coupler is being substituted for another. However, at column 3, lines 4-8, Drosdak ‘652 states that “[w]hile I have illustrated a preferred embodiment of a connector 7 (enlarged for clarity), other shapes and styles of connectors could be used so long as they have a female threaded socket to receive the threaded butt end portion 4 of the leader line 1 to be attached.” Accordingly, Examiner’s conclusion that it would have been obvious to provide Drosdak ‘652 with a coupler, e.g., Appellant’s claimed hooks 40,41, as shown by McMahan as a substitute for coupler 8 since merely one equivalent mechanical coupler is being substituted for another is not supported by Drosdak ‘652. Drosdak ‘652 expressly teaches that connector 7 can have various shapes and styles so long as it has a female threaded socket, e.g., coupler 8, to receive the threaded butt end portion of a leader line. In Drosdak ‘652, it is essential that connector 7 incorporate a female threaded socket to receive the threaded butt end portion of the leader line to be attached.

¹*In re Wood*, 599 F.2d 1032, 202 USPQ 171, 174 (C.C.P.A. 1979) (emphasis added) (citing *In re Bozek*, 416 F.2d 1385, 1390, 163 U.S.P.Q. 545, 549-50 (C.C.P.A. 1969); *In re Mapelsden*, 329 F.2d 321, 322, 141 USPQ 30, 32 (C.C.P.A. 1964)).

This is not the case in applicant's invention as claimed in independent claim 1 and there is no teaching in Drosdak '652 of the desirability of substituting any other coupler for threaded female socket 8.

"It is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements."³ Although the Examiner has identified in the prior art a connector as in Drosdak '652 and hooks as in McMahon, Examiner has not identified a teaching or suggestion in Drosdak '652 and/or McMahon to combine these elements as claimed and set forth by applicants in independent claim 1. In fact, because Drosdak '652 expressly teaches that connector 7 can have various shapes and styles so long as it has a female threaded socket, e.g., coupler 8, to receive the threaded butt end portion of a leader line, Drosdak '652 teaches away from McMahon. Accordingly, Appellant asserts that the Examiner erred rejecting claims 1-3 and 37 as obvious under 35 U.S.C. 103(a) as unpatentable over Drosdak '652 in view of McMahon, that the combination of Drosdak '652 and McMahon is an improper combination, and that claims 1-3 and 37 are not obvious under section 103 as being unpatentable over Drosdak '652 in view of McMahon.

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² See *In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987).

³ *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 43 USPQ 2d 1294 (Fed. Cir. 1997).

B. Claims 38-41 are not obvious under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of Drosdak (U.S. Patent 5,469,652)

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drosdak (U.S. Patent 5,469,652) in view of Drosdak (U.S. Patent 4,864,767). Appellant respectfully traverses Examiner's rejections of claims 38-41.

In paper no. 14, Examiner asserts that the patents to Drosdak show fishing line and lure couplers; that Drosdak '652, as discussed above in section A, shows a first open end leading to a receptacle and an opposing second end; and that Drosdak '767 shows a coupler attached to a body 10-12 in which the coupler comprises a pair of opposing plates 14, 14' which are biased together and prongs 18, 20 carried by and between the plates capable of securing a hook eye of a lure. In reference to claim 38, Examiner asserts that it would have been obvious to provide Drosdak '652 with a coupler as shown by Drosdak '767 since merely one mechanically equivalent coupler is being substituted for another and the function is the same.

An invention does not make itself obvious; that suggestion or teaching must come from the prior art. In Drosdak '652, coupler 8 is a threaded female socket. With respect to claim 38, Examiner states that it would have been obvious to provide Drosdak '652 with a coupler as shown by Drosdak '767 since merely one mechanically equivalent coupler is being substituted for another and the function is the same. However, at column 3, lines 4-8, Drosdak '652 states that "[w]hile I have illustrated a preferred embodiment of a connector 7 (enlarged for clarity), other shapes and styles of connectors could be used so long as they have a female threaded socket to receive the threaded butt end portion 4 of the leader line 1 to be attached." Accordingly, Examiner's conclusion that it would have been obvious to provide Drosdak '652 with a coupler as shown by Drosdak '767 since merely one mechanically equivalent coupler is being substituted for another and the function is the same is not supported by Drosdak '652. Drosdak '652 expressly teaches that connector 7 can have various shapes and styles so long as it has a

female threaded socket, e.g., coupler 8, to receive the threaded but end portion of a leader line. In Drosdak '652, it is essential that connector 7 incorporate a female threaded socket to receive the threaded butt end portion of the leader line to be attached. This is not the case in applicant's invention as claimed and there is no teaching in Drosdak '652 of the desirability of substituting any other coupler for this arrangement.

"It is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements."⁴ Although the Examiner has identified, in the prior art, a connector as in Drosdak '652 and jaws 14,14' as in Drosdak '767, Examiner has not identified a teaching or suggestion in Drosdak '652 and/or Drosdak '767 to combine these elements as claimed and set forth by applicants in independent claim 1. In fact, because Drosdak '652 expressly teaches that connector 7 can have various shapes and styles so long as it has a female threaded socket, e.g., coupler 8, to receive the threaded but end portion of a leader line, Drosdak '652 teaches away from Drosdak '767. Accordingly, Appellant asserts that the Examiner erred rejecting claims 38-41 as obvious under 35 U.S.C. 103(a) as unpatentable over Drosdak '652 in view of Drosdak '767, that the combination of Drosdak '652 and Drosdak '767 is an improper combination, and that claims 38-41 are not obvious under section 103 as being unpatentable over Drosdak '652 in view of Drosdak '767.

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⁴ *Id.*

C. Conclusion

Appellant assert that following claims on appeal are not obvious and not unpatentable and should be allowed:

1. Independent claim 1 and dependent claims 2, 3, and 37; and
2. Independent claim 38 and dependent claims 39-41.

It is respectfully submitted that Appellants' claims 1-3 and 37-41 are clearly allowable and that this case is in condition for allowance. Appellant therefore prays for the reversal of the final rejection and the allowance of the subject application.

Respectfully submitted,

Michael L. Denby



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June 10, 2003
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Serial Number: 09/546,502
Group Art Unit: 3643

APPENDIX A



Serial Number: 09746,502
Group Art Unit: 3643

1. Apparatus for receiving and securing an end segment of a line comprising:

a body including a receptacle having inwardly directed extensions, an open first end leading to the receptacle and an opposing second end;

the receptacle capable of receiving therein and the extensions impinging thereagainst the end segment; and

a pair of resilient hooks attached to the second end of the body and disposed in an overlapping state forming a continuous loop in which a lure is engagable to the coupler by forcing the hooks apart and threading one of the hooks into and through a hook eye of the lure.

2. Apparatus of claim 1, the receptacle having a length, wherein the extensions are positioned at spaced intervals along substantially the entire length of the receptacle.

3. Apparatus of claim 1, wherein the extensions are directed away from the open first end of the body leading to the receptacle.

37. Apparatus of claim 3, wherein the pair of resilient hooks extend away from the second end of the body opposing the open first end of the body.

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38. Apparatus for receiving and securing an end segment of a line comprising:

a body including a receptacle having inwardly directed extensions, an open first end leading to the receptacle and an opposing second end;

the receptacle capable of receiving therein and the extensions impinging thereagainst the end segment; and

a pair of opposing plates attached to the second end of the body and biased together and prongs carried by and between the plates capable of securing a hook eye of a lure.

39. Apparatus of claim 38, the receptacle having a length, wherein the extensions are positioned at spaced intervals along substantially the entire length of the receptacle.

40. Apparatus of claim 38, wherein the extensions are directed away from the open first end of the body leading to the receptacle.

41. Apparatus of claim 40, wherein the pair of opposing plates extend away from the second end of the body opposing the open first end of the body.